



CLAY COUNTY PLANNING AND ZONING COMMISSION (“PZC”) ACTION

Date: December 9, 2011

Case: Oct. 11-115 A – Administrative (Other) – Land Development Code (LDC) Text Amendments

Applicant/Owners: Clay County Planning & Zoning Department

Work Session: Date Requested: 12/19/2011

Business Session: Date Requested: 12/19/2011

Past Commission Action:

2003 LDC, adopted 06/23/2003; Amend. – application procedures and enforcement language, et.al, 2001-ORD-09, 04/12/2004; Amend. – security/guard house, animal shelter, et.al, 2005-ORD-15, 02/28/2005; Amend. – RIF language, Zone 2 to 25', et.al, 2007-ORD-15, 08/13/2007; Amend – Wind Energy Systems (WES), Organic Recycling Facilities (ORF), and Erosion and Sediment Control (ESC), 2010-ORD-08, 03/08/2010.

Current LDC

This request represents amendments (or revisions) to the current 2003 Clay County Land Development Code (“LDC”) as adopted June 23, 2003 and last amended March 8, 2010.

Due to the massive amount of proposed amendments both large and small, an exhaustive list of the current LDC text would be unnecessary. The current LDC text can be obtained from the office or downloaded using the following Clay County public webpage:

http://www.claycountymo.gov/Planning_and_Zoning/Zoning_and_Subdivision/Land_Development_Code_2003

Proposed LDC Text Amendments

When the 2008 Clay County Comprehensive Plan (“the Plan”) was approved, a set of specific goals, objectives, and policies were established that directly impacted development code. In turn, the authoritative source on development regulations and code for Clay County must be updated to reflect these major shifts in direction. County Planning & Zoning Department staff has worked diligently researching, formulating, and drafting massive amounts of proposed amendments to the LDC since the Plan was approved.

The following table highlights a number of important portions of the proposed amendments. Some minor amendments such as typos or grammatical errors have not been included in the below summary list so that the readers may better understand the more complex proposed amendments. That being said, the complete proposed LDC text is included under Attachment “A” of this report.

Type	Section	Sub-section(s)	Comments
LDC Code Amendments – Summary Table			
Case #: October 11-115A			
Chapter 1 – Introduction			
AMEND			Mainly only updated comprehensive plan, zoning district, and cross-references to other sections.
Chapter 2 – Review Process			
	2.2, County Commission		
AMEND/ ADD		(D) Overlay and Special Purpose Zoning Districts	Amended and added language to reflect the new POD overlay zoning district. See Chapters 3 and 5 below for more information.

Type	Section	Sub-section(s)	Comments
Chapter 3 – Development Review Procedures			
	3.3, Zoning Map Amendments		
AMEND		(A) Application Filing, (6) Preliminary Plat	<p>Gives the applicant of a rezoning request the option to either submit a Preliminary Plat or a Site Plan.</p> <p>Some rezonings do not require an associated Preliminary Plat if no subdivision of land is requested.</p>
	3.6, Major Subdivision		
ADD		(A) Stormwater Management	Development review procedure of stormwater management in conjunction with the passage of the Erosion and Sediment Control regulations in 2010.
ADD		(D) Final Plats	<p>The recording of a plat constitutes an offer of dedication of the public improvements. However, before such improvements become publicly owned and maintained, the local governing body must accept this offer.</p> <p>A disclaimer here is particularly important in view of the fact that the developer's 1-yr surety warranty on public infrastructure starts upon acceptance.</p>
AMEND	3.9, Conditional Use Permits TO Preservation Overlay Districts (POD)		
ADD	3.9, Preservation Overlay District (POD)	Agricultural Land Preservation (ALP) Shadow Plat (SP)	<p>An overarching theme of the Plan included a minimum lot size of 20 acres for all proposed subdivisions of land.</p> <p>However, the Plan went on to establish a few exceptions to the 20-acre minimum lot size – 1 dealing with agriculture deed restriction, and 1 for a shadow plat. In order to implement these guidelines into the LDC, staff recommends the creation of a Preservation Overlay District, or POD for short.</p> <p>PODs would be organized into 2 subcategories: Agricultural Land Preservation (ALP) in relation to the agricultural deed restriction, or Shadow Plat (SP).</p> <p>Instead of the County establishing a full-fledge land trust organization and/or conservation program to administer both of these exceptions or contract with a third party to do so, staff believes placing the regulations under a zoning overlay district system is the most effective way to implement this guidance placed by the Plan. Under this arrangement, the property owners would not be stuck in perpetuity with recorded easements, but rather only under a zoning overlay district that's far less infinite. The property owners and/or applicants could pursue a rezoning request in the future to remove the POD overlay if they feel the POD does not work for their situation.</p> <p>This particular section deals with the establishment of development review procedures for a POD. Corresponding regulatory code for PODs can be found under Section 151-5.4 below and Attachment "A".</p>

Type	Section	Sub-section(s)	Comments
Chapter 4 – Base Zoning Districts			
AMEND/ ADD	4.1, Establishment of Base Zoning Districts		<p>In response to the 5 and 10-acre exceptions to the 20-acre minimum lot size established by the Plan, staff recommends the following changes to the zoning districts:</p> <p>REMOVE: R-1A – Residential Low Density (3 ac.) R-1B – Residential Urban R-2 – Residential Duplex R-3 – Residential Multi-Unit</p> <p>ADD: R-5 – Residential Ranchette (5 ac.) RU – Residential Urban Density Districts RU-80 – 80,000 ft² minimum lot size RU-40 – 40,000 RU-25 – 25,000 RU-15 – 15,000 RU-12 – 12,000 RU-9 – 9,000 R-SD – Residential Services (Two-Family) R-SDM – Residential Services Multi-Family</p> <p>OP – Open Space/Trails/Parks/Public Uses (existed before but was not included in table)</p>
ADD	4.3, Interpretation of District Boundaries		Describes how zoning district boundaries are to be interpreted where uncertainty exists, such as with overlaps or gaps.
Chapter 5 – Overlay and Special Purpose Zoning Districts			
ADD	5.4, POD, Preservation Overlay District		<p>The Plan established a few exceptions to the 20-acre minimum lot size – 1 dealing with agriculture deed restriction, and 1 for a shadow plat. In order to implement these guidelines into the LDC, staff recommends the creation of a Preservation Overlay District, or POD for short.</p> <p>PODs would be organized into 2 subcategories: Agricultural Land Preservation (ALP) in relation to the agricultural deed restriction, or Shadow Plat (SP).</p> <p>This particular section deals with the regulatory code for a POD, such as purpose, applicability, and additional conditions. Corresponding development review procedural code for PODs can be found under Section 151-3.9 above and Attachment “A”.</p>
Chapter 6 – Use Regulations			
AMEND/ ADD	6.1, Use Table		<p>AMEND/ADD: Aligned Group Homes with MO statutes Redesigned the Animal Standards</p> <p>ADD: Crematorium Boat Storage (outside 2 miles of Smithville Lake) Telecommunications Facility, Commercial Telecommunications Facility, Amateur or Non-Commercial Agricultural Tourist Operations – Class I & II Distilleries Wineries and Breweries, Class I thru V</p>

Type	Section	Sub-section(s)	Comments
	6.2, Use Standards		
AMEND		(C) Animal Standards	<p>Overhauled the animal regulations to make it more organized, and better reflect the State of MO standards.</p> <p>Propose 4 fundamental classifications: Companion Domestic Animals – dogs and cats Small Domestic Animals – rabbits, guinea pigs Medium Domestic Animals – pigs, sheep Large Domestic Animals – cows, horses, mules</p> <p>In addition, an Animal Unit (AU) based system is proposed to calculate the allowable amount of animals on any piece of land by a per acre ratio. These same ratios are already in use by the State of Missouri.</p> <p>At the end of the Animal Standards code, a summary table is included to assist readers.</p>
AMEND		(D) Animal Production	Centralized all animal production regulations into 1 location, including CAFOs (Confined Animal Feed Operations).
AMEND		(E) Animals, Exotic/Dangerous/Wild (EDW)	Significantly cleaned up EDW regulations to make it less complicated.
AMEND		(F) Telecommunications Facility (Amateur or Non-Commercial)	Altered amateur tower code to better relate the regulations found in its commercial counterpart.
AMEND		(W) Animal Services, Kennels, and Animal Shelters	Cleaned up old veterinary service code to better relate back to the new Animal Standards code found under Section 151-6.2 (C) thru (E)
ADD		(Z) Agricultural Tourist Operations (ATOs)	<p>As a result of the Plan, staff proposes adding regulations covering Agricultural Tourist Operations (ATOs), or “Agri-tourism” as it is more commonly referred.</p> <p>2 classifications are proposed: Class I – meant for smaller-scaled ATOs Class II – intended for larger-scaled ATOs</p>
ADD		(AA) Wineries and Breweries	Dedicated section addressing the desired regulations for Wineries and Breweries. A good amount of this code was researched from well-established wine country in California.
ADD		(BB) Ethanol Production Facilities (EPF)	Included section covering EPFs. A good amount of this code was researched from multiple sources across the country.
ADD		(CC) Landscaping and Lawn Care Services	Included section involving Landscaping and Lawn Care companies.
	6.3, Accessory Buildings		
AMEND		(B) Accessory Structures	Farm structures permitted with a minimum of 3 acres.
AMEND		(D) Home Occupations	Added more prohibited uses such as antique shops, dance schools, and funeral homes amongst others, as well as restricting hazardous materials.
Chapter 7 – Density and Dimensional Standards			
AMEND			Mainly only updated comprehensive plan, zoning district, and cross-references to other sections.

Type	Section	Sub-section(s)	Comments
Chapter 8 – Subdivision Design and Improvements			
AMEND	8.2, Layout and Design Generally	(D) Open Space Areas	Cleaned up some of the language to reflect the new Residential Urban (RU) zoning districts.
ADD	8.4, Lots	(A) Width to Depth Ratio	Added exceptions to minimum 4:1 width to depth for cul-de-sac lots and shared driveways.
AMEND	8.7, Vehicular Circulation (Streets and Bridges)		Corrected language to better reflect the terminology within the Plan such as Planning Tiers and the different levels of street classifications.
AMEND	8.10, Wastewater Systems		Corrected language to better reflect the terminology within the Plan such as Planning Tiers and the different levels of wastewater systems.
Chapter 9 – Road Impacts			
AMEND	9.11, Escrow of Fee	(A) Request to be Made in Writing; Time of Payment	Per Highway Department, changed geographic area of road impact FROM specific section of road TO County right-of-way (ROW) near the property.
Chapter 10 – Development Standards			
AMEND			Mainly only updated comprehensive plan, zoning district, and cross-references to other sections.
Chapter 11 – Environmental			
AMEND	11.4, Junk, Trash, and Derelict Vehicles	(D), Violation and Penalty	Added language that establishes violation and penalty provisions that include the ability to fine up to \$100.
ADD	11.5, Noxious Weeds or Plants		Prohibits tall grass and weeds on property zoned RU, R-SD, R-SDM, or R-MHP.
Chapter 12 – Signs			
AMEND			Mainly only updated comprehensive plan, zoning district, and cross-references to other sections.
Chapter 15 – Definitions			
	15.1, Terms and Uses Defined		
ADD		Accessory Tower Equipment	Added definition to reflect changes to telecommunications facility, commercial and amateur under Section 151-6.2.
ADD		Agricultural Tourist Operations (ATOs)	Added definitions in response to new use standards for ATOs under Section 151-6.2.
		Animal definitions	Overhauled all animal-related definitions to better reflect amendments in Section 151-6.2 (C).
AMEND		Antenna / Tower	Adjusted definition to fall in line better with the amendments to the Telecommunications Facility code under Section 151-6.2 (F) and (G).
ADD		Brewery / Distillery / Tasting Facility / Vineyard / Viticulture / Winery	Added definitions in response to Wineries and Breweries code under Section 151-6.2 (AA).
AMEND		Group Homes	Adjusted definitions to better reflect Missouri Revised Statutes (RSMo)
ADD		Shadow Plat	In response to addition of the Preservation Overlay District (POD) language under Sections 151-3.9 and 5.4, included the definition of a Shadow Plat.
ADD		Telecommunications Facility, Amateur or Non-Commercial	Added definition to better reflect amendments to the Telecommunications Facility code under Section 151-6.2 (F) and (G).

Outside Agency Review

Not applicable (N/A)

Findings

The original LDC was adopted on June 23, 2003, and amended multiple times throughout the years as necessary (the last being March 8, 2010). The LDC is a technical, codified document that has many sections and cross references. As amendments have occurred to the document, section numbers and references have not been accurately updated throughout the text. This leads to difficulty in ease of use of the text, and can create interpretation problems in some circumstances.

This massive wave of 2011 amendments to the LDC encompasses numerous additions covering highly essential topics. In addition, these proposed amendments correct many conflicting, confusing, and/or misleading sections that have been marked by staff throughout the years. Due to this massive extent of proposed amendments, along with the attempt to implement the guidance established under the 2008 Comprehensive Plan, it is the recommendation of staff that the **LDC be renamed from “2003” to “2011”**.

With this extensive amount of proposed amendments, the LDC will now better address the most current and prominent topics in the community planning and development industry. As a direct benefit, the LDC will be easier for staff, citizens, and Boards and Commission members to better understand and implement.

The application was properly noticed in the Kearney Courier on September 15, 2011, per regulations. The Planning & Zoning Commission (“PZC”) held two (2) public meetings at their regularly scheduled times in November and December, as well as a special work session on November 29, 2011 to review the subject request and allow for public comment.

No public comments had been received as of this report.

PZC Commission Recommendations

The PZC Commissioners' final vote was 4-0 to recommend **approval** of the **Land Development Code (LDC) Text Amendments**.

Planning and Zoning Commission Chair _____

Planning and Zoning Director _____